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New York, NY 10017
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Howard P. Magaliff

Hearing date and time: 4/18/22 at 10:00 AM
Objection date and time: 4/13/22 at 5:00 PM

Attorneys for Howard P. Magaliff, Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 7
	:	
232 SEIGEL DEVELOPMENT LLC, <i>et al.</i> ,	:	Case No. 20-22844 (RDD)
	:	
Debtors. ¹	:	Jointly Administered
-----	X	

**NOTICE OF HEARING ON TRUSTEE'S MOTION FOR ORDER
CONFIRMING SALE OF 232 SEIGEL STREET, BROOKLYN, NEW YORK
FREE AND CLEAR OF MECHANIC'S LIEN OF 20/20 INSPECTIONS, INC.**

PLEASE TAKE NOTICE that a hearing to consider the Trustee's *Motion for Order Confirming Sale of 232 Seigel Street, Brooklyn, New York Free and Clear of Mechanic's Lien of 20/20 Inspections, Inc.* (the "Motion") will be held on April 18, 2022 at 10:00 a.m. before the Honorable Robert D. Drain, United States Bankruptcy Judge. The hearing will be conducted virtually using Zoom for Government. Parties wishing to appear must register in advance using the Electronic Appearance portal located on the Court's website at <http://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl>.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief requested in the Motion must be in writing and conform to the Bankruptcy Code, the Bankruptcy Rules and Local Rules of the Bankruptcy Court, must set forth the name of the objecting party, the basis for the objection, and the specific grounds therefor, must be filed with the Bankruptcy Court electronically in accordance with General Order M-399 (which can be found at www.nysb.uscourts.gov) by registered users of the Bankruptcy Court's case filing system and, by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), Word, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), and served in accordance with General Order M-399, and served upon: (i) Rich Michaelson Magaliff, LLP, 335 Madison Avenue, 9th Floor, New York, NY 10017, Attn: Howard P. Magaliff, Esq., hmagaliff@r3mlaw.com and (ii) the Office of the United States Trustee, 201 Varick Street, Suite 1006, New York, NY 10014, Attn: Paul Schwartzberg, Esq., paul.schwartzberg@usdoj.gov so as to actually be filed with the Bankruptcy Court and received by the parties listed above no later than April 13, 2022 at 5:00 p.m. (prevailing Eastern Time).

¹ The Debtors in these chapter 7 cases and the last four digits of each Debtor's taxpayer identification number are as follows: 232 Seigel Development LLC (0108) and 232 Seigel Acquisition LLC (9782).

PLEASE TAKE FURTHER NOTICE that if no objection is timely filed and received, the Bankruptcy Court may approve the Motion at the hearing. Objecting parties are required to attend the hearing and failure to appear may result in relief being granted or denied upon default.

Dated: New York, New York
March 23, 2022

RICH MICHAELSON MAGALIFF, LLP
Attorneys for the Trustee
By:

/s/ Howard P. Magaliff
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Attorneys for Howard P. Magaliff, Trustee

UNITED STATES BANKRUPTCY COURT
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In re:	:	Chapter 7
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232 SEIGEL DEVELOPMENT LLC, <i>et al.</i> ,	:	Case No. 20-22844 (RDD)
	:	
Debtors. ²	:	Jointly Administered
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**TRUSTEE’S MOTION FOR ORDER CONFIRMING SALE OF
232 SEIGEL STREET, BROOKLYN, NEW YORK FREE AND
CLEAR OF MECHANIC’S LIEN OF 20/20 INSPECTIONS, INC.**

TO THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:

Howard P. Magaliff, the chapter 7 trustee (the “Trustee”) of the jointly administered estates of 232 Seigel Development LLC (“Development”) and 232 Seigel Acquisition LLC (“Acquisition” and together with Development, the “Debtors”), by his attorneys Rich Michaelson Magaliff, LLP, respectfully submits this motion (the “Motion”) for an order confirming that the sale of the Property (defined *infra.*) is free and clear of the mechanic’s lien of 20/20 Inspections, Inc. (“20/20”), and states:

1. On June 14, 2020 232 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. By Order dated October 15, 2021 [doc. 160], the Court converted the Debtors’ chapter 11 cases to cases under chapter 7 of the

² The Debtors in these chapter 7 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: 232 Seigel Development LLC (0108) and 232 Seigel Acquisition LLC (9782).

Bankruptcy Code. The Trustee was appointed as the chapter 7 interim trustee of the Debtors, and is the trustee pursuant to section 702(d) of the Bankruptcy Code.

2. As of the Petition Date, Acquisition was the owner of real property located at 232 Seigel Street, Brooklyn, NY (the “Property”).

3. By Order dated November 10, 2021 [doc. 171], the Trustee retained MYC & Associates, Inc. as his special real estate broker to market and sell the Property.

4. Pursuant to Order dated November 19, 2021 [doc. 174], the Court approved bidding procedures for a public auction sale (the “Auction Sale”) of the Property, the terms and conditions of the sale, and notice provisions. The Auction Sale took place on February 24, 2022.

5. On March 7, 2022 following a hearing, the Court entered an Order [doc. 194] authorizing the sale of the Property to Abraham Leifer or his designee (the “Purchaser”) pursuant to sections 363(b) and (f) of the Bankruptcy Code (the “Sale Approval Order”). The Sale Approval Order contained a finding that “[s]ale of the Property free and clear of liens, claims, and interests pursuant to section 363(f) of the Bankruptcy Code is appropriate because the Trustee has satisfied one or more of the requirements of section 363(f) of the Bankruptcy Code.” Sale Approval Order, ¶ H. The Sale Approval Order provided:

Pursuant to 11 U.S.C. § 363(b) and (f), the Trustee is authorized to sell the Property to the Successful Bidder or his designee or, if the Successful Bidder fails to close, to the Second Highest Bidder or its designee, free and clear of all liens, claims, interests, and encumbrances therein or thereon of entities other than the Debtors’ estates of whatever kind or nature, with such liens, claims, interests, and encumbrances, if any, to attach to the proceeds of the Auction Sale in such order and priority as they existed immediately prior to the date of the Auction Sale.

Id., ¶ 2.

6. Closing on the sale of the Property occurred on March 23, 2022.

7. The day before closing, counsel for the Purchaser informed the Trustee that the title search revealed that 20/20 had filed a mechanic's lien against the Property on March 10, 2021 (the "Lien") in the amount of \$73,237.71 (the "Lien Amount"), which was renewed on March 1, 2022, and that 20/20 did not receive notice of the proposed sale of the Property and an opportunity to object. At closing, the title company Riverside Abstract, LLC ("Riverside") escrowed the amount of \$87,885.25, which is 120% of the Lien Amount (the "Escrowed Funds"). Pursuant to an escrow agreement with the title company signed at closing, the Escrowed Funds "can only be released by the Depository [Riverside] upon order of the United States Bankruptcy Court for the Southern District of New York entered in the case of *In re Seigel Development LLC, et al.*, Case No. 20-22844-rdd, and will be held pending receipt of an updated court order" authorizing the sale free and clear of 20/20's Lien.

8. The Trustee seeks an order from this Court confirming that the sale of the Property is free and clear of 20/20's Lien pursuant to section 363(f) of the Bankruptcy Code. The Trustee submits that the finding of fact in ¶ H of the Sale Approval Order and the second decretal paragraph authorizing the sale free and clear of liens, claims, interests and encumbrances apply to 20/20 and the Lien. The fact that 20/20 did not receive notice of the proposed sale in the first instance would not have changed the outcome.

9. Nonetheless, to afford 20/20 the same rights to notice and an opportunity to object that all other creditors received, the Trustee is filing this Motion. The Trustee will give 20/20 at least 21 days' notice of the hearing – the notice required by Bankruptcy Rule 2002(a)(2) for a sale of property not in the ordinary course of business – and will include with the notice copies of the motion to approve the sale and the Sale Approval Order. The Trustee submits that such notice is appropriate under the circumstances.

WHEREFORE, for the foregoing reasons, the Trustee requests that the Court enter the order in the form attached as Exhibit 1, together with such other and further relief as the Court considers appropriate under the circumstances.

Dated: New York, New York
March 23, 2022

RICH MICHAELSON MAGALIFF, LLP
Attorneys for the Trustee
By:

/s/ Howard P. Magaliff
335 Madison Avenue, 9th Floor
New York, NY 10017
646.453.7851
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EXHIBIT 1UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 7
	:	
232 SEIGEL DEVELOPMENT LLC, <i>et al.</i> ,	:	Case No. 20-22844 (RDD)
	:	
Debtors. ¹	:	Jointly Administered
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**ORDER CONFIRMING SALE OF 232 SEIGEL STREET,
BROOKLYN, NEW YORK FREE AND CLEAR OF
MECHANIC'S LIEN OF 20/20 INSPECTIONS, INC.**

Upon the motion dated March 23, 2022 (the “Motion”) of Howard P. Magaliff (the “Trustee”), the chapter 7 trustee of 232 Seigel Development LLC (“Development”) and 232 Seigel Acquisition LLC (“Acquisition” and together with Development, the “Debtors”), for entry of an order confirming that the sale of the real property and improvements thereon located at 232 Seigel Avenue, Brooklyn, New York (the “Property”) is free and clear of the lien of 20/20 Inspections, Inc. (“20/20”); and notice of the Motion and hearing thereon, together with copies of the motion to authorize the sale of the Property [doc. 176] and the Order dated March 7, 2022 [doc. 194] authorizing the sale of the Property to Abraham Leifer or his designee (the “Purchaser”) pursuant to sections 363(b) and (f) of the Bankruptcy Code (the “Sale Approval Order”) free and clear of liens, claims, and interests, having been given by overnight delivery on March __, 2022 to 20/20, and notice of the Motion alone to counsel for DB 232 Seigel LLC and the United States Trustee, being adequate and sufficient notice; and a hearing having been held on April 18, 2022 to consider the Motion, and the Court having considered the arguments of counsel for the Trustee in support of the Motion and all other parties wishing to be heard; and the Court

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having determined that the relief requested is appropriate and in the best interests of the Debtors' estate, creditors, and parties in interest; now, therefore it is,

ORDERED, that the Motion be, and hereby is, granted as set forth herein; and it is further

ORDERED, that the Sale Approval Order, and the findings of fact and conclusions of law therein are confirmed and adopted herein with respect to the mechanic's lien of 20/20; and it is further

ORDERED that pursuant to 11 U.S.C. § 363(f), the sale of the Property be, and hereby is free and clear of the mechanic's lien of 20/20; and it is further

ORDERED that Riverside Abstract, LLC is directed to immediately release from escrow and turn over and deliver to the Trustee the Escrowed Funds (as defined in the Motion) in the amount of \$87,885.25 that it is holding from the closing of the sale of the Property; and it is further

ORDERED that this Court shall retain jurisdiction with respect to any dispute under this Order.

Dated: White Plains, New York
April __, 2022

Hon. Robert D. Drain
United States Bankruptcy Judge